

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
April 9, 2003

ITEM: 8

SUBJECT: STATUS REPORT: COUNTY OF SAN DIEGO'S
IMPLEMENTATION OF THE SAN DIEGO MS4
STORMWATER PERMIT AS THE PRINCIPAL CO-
PERMITTEE (Phil Hammer)

PURPOSE: To provide the County of San Diego with the opportunity to
confirm or deny its intent to serve in a leadership role as the
Principal Co-Permittee to facilitate implementation of the San
Diego Municipal Separate Storm Sewer System (MS4) Permit.

PUBLIC NOTICE: This item was included on the April 9, 2003 Regional Board
Meeting Agenda Notice, which was issued on March 21, 2003 in
accordance with Government Code Section 11125.

DISCUSSION: During the March 12, 2003 Regional Board meeting, Chairman
John Minan directed the Executive Officer to investigate recent
activities by the County of San Diego (County) and to confirm the
source of the County's actions and future intent. A transcript of
this portion of the Regional Board meeting is provided as
Attachment 1. The Executive Officer subsequently sent a letter
(Attachment 2) on March 18, 2003, to the County requesting the
County to clarify their intentions as they relate to their role as
Principal Co-Permittee.

The San Diego MS4 Permit (Permit), adopted February 21, 2001,
regulates urban runoff discharges from the County of San Diego,
the 18 incorporated cities of San Diego County, and the San Diego
Unified Port District (Co-Permittees). The Permit requires the Co-
Permittees to identify a Principal Co-Permittee to serve as a liaison
between the Co-Permittees and the Regional Board, to coordinate
permit activities among the Co-Permittees, to facilitate
collaboration on the development and implementation of programs
required under the Permit, and to integrate individual Co-Permittee
reports into single unified reports. Essentially, the Principal Co-
Permittee serves a leadership role, aiding and guiding the other Co-
Permittees in implementing the Permit.

Ninety days following adoption of the Permit, the Co-Permittees
identified the County as the Principal Co-Permittee to fulfill these
duties. In the time following its designation as Principal Co-

Permittee, the County has served as Principal Co-Permittee by conducting many activities. These activities include creating model program guidance documents for each major Permit component, coordinating meetings among the Co-Permittees, implementing regional education strategies, and compiling submittals to the Regional Board.

The County, however, has also been active in other areas that can be considered detrimental to implementation of the Permit. The County participated in the Building Industry Association of San Diego County's (BIA) lawsuit challenging the Permit. During this participation, the County (with several other Co-Permittees) filed a brief (Attachment 3) which adopted many of BIA's arguments, and added new arguments calling into question Regional Board processes in adopting the Permit. In addition, the County has written proposed legislation (Assembly Bill 1517, introduced by Assembly Member Plescia, Escondido; Attachment 4) which would overturn many requirements of the Permit. Moreover, the County used its leadership role as Principal Co-Permittee to solicit support for the proposed legislation from the other Co-Permittees at a bimonthly Co-Permittee Meeting.

Unfortunately, the County has expressed contradictory positions since adoption of the Permit. The County expressed support for the Permit and has worked towards implementing Permit requirements. At the same time, they have worked against Permit implementation by participating in litigation against the Permit and by promoting legislation that would relieve storm water agencies from significant Permit requirements. While, the County may be implementing the regulatory requirements of a Principal Co-Permittee, the County's actions to undermine the Permit call into serious question the County's leadership role as the Principal Co-Permittee.

A letter to the County from San Diego BayKeeper (Attachment 5), a press release (Attachment 6), and newspaper articles (Attachments 7 and 8) related to the proposed legislation are also included as supplemental information.

LEGAL CONCERNS: None

RECOMMENDATIONS: Receive the County of San Diego's and other parties' comments.

SUPPORTING
DOCUMENTS:

1. Transcript of the March 12, 2003, Regional Board Meeting.
2. Letter from John Robertus, San Diego Regional Water Quality Control Board, to Walter Ekard, County of San Diego. March 18, 2003.
3. Opening Brief of the Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Imperial Beach, Poway, Solana

Beach, and the County of San Diego. Building Industry Association of San Diego County, etc., et al., v. State Water Resources Control Board, et al. February 10, 2003.

4. Assembly Bill 1517. Introduced by Assembly Member Plescia. February 21, 2003.
5. Letter from Marco Gonzalez, San Diego BayKeeper, to Thomas Pastuszka, County of San Diego. March 18, 2003.
6. "San Diego's Environmental Community Calls on County Supervisors to Cease 'Dirty Water' Campaign." Press Release. San Diego BayKeeper. March 18, 2003.
7. "County Rocks Boat With Water Legislation." San Diego Union Tribune. March 17, 2003.
8. "State to County: Commit to Clean Water or Step Down." North County Times. March 21, 2003.